

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
February 27, 2009
Downtown Justice Center, Phoenix, Arizona

MEMBERS PRESENT:

Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Sarah Simmons
Hon. Kevin White

STAFF:

Ms. Kathy Sekardi
Ms. Annette Mariani

PRESENT:

Ms. Tara Ellman
Ms. Patricia Madsen
Ms. Cari Gerchick
Ms. Theresa Barrett

MEMBERS ABSENT:

Hon. Rebecca Albrecht

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:11 a.m. Judge Cohen welcomed the members and reviewed the meeting materials. He then informed members the focus for the meeting would involve discussion on Phase I and Phase II, work on clarifying language, and reorganizing the guidelines. It was noted the Cash Medical Support Order would need to be addressed at a later meeting.

Approval of the Minutes

MOTION: The December 16, 2008 minutes were moved and seconded without modification.

MOTION: The January 23, 2009 minutes were moved and seconded without modification.

Review Spreadsheet Study Task Group

A summary of the task group's recommendations were disseminated to the group in order to begin discussion on the grid comparisons. Summary information was taken from all the detailed tables.

DISCUSSION POINTS THAT ENSUED:

- Consider adoption of Phase II. Burt Barnow will extrapolate from the task group's grids and set his tables with a full set of income combinations.

- Goal/Operating Principle: The families wherein the two parents are equal earners, the numbers should come out about the same. Due to a steep declining rate structure once the higher incomes are obtained, one would reach a disparity even though they are earning the same amount. A clarification should be made that when looking at these numbers *equal* means equal to each other, not to what the current guidelines are.
- The committee reviewed the task group's output grids and tables that compared child support amounts against the current guideline amounts and CPR's proposed amounts *without* any parenting adjustments.
- A question was raised as to whether the full committee will want to apply the self support reserve that the current guidelines use. The task group recommendation assumes a self support reserve of \$903. The current guidelines in effect use \$775 as a self support reserve.
- The committee questioned how much income shifting is appropriate in those circumstances where one of the parents has no income, which is reflected by a "0" amount in the grids. Where is the balance? These are situations where the court has decided income should not be imputed to this parent. The members discussed "0" income compared to the benchmark. There was a general perception that in most of these cases, the assumption is that the custodial parent will re-marry and will contribute a reasonable amount of income.
- The committee discussed Cummings v. Cummings and the cost deferral concept. Should recurring gifts that benefit the child be taken into account? (From new stepparents or from grandparents?) There could be problems determining the appropriate amount to apportion.
- The proposed changes in output numbers raised some concerns for members. Changes of 15% or more could mean child support orders that currently stand will need to be re-worked. Taking a lesson from Phase I and re-working the Phase II numbers with adjustments in the corners may be a direction to consider. How do we look at scaling down across the board? How is the comparison made to the current system so that all the work accomplished so far is not completely undone?
- If there are living expenses reduced by a third party source should these be taken into consideration? (i.e. Issue of deferred expenses.) Are these to be considered in cases when a parent is working below their earning capacity? It was clarified that the standard of living benchmark was consistent with Arizona economics rather than nationwide numbers. The middle income standard of living benchmark referred to in Phase II is based on the median income for a family of four in Arizona.

- The task group believes that there should not be adjustments for child care because child care costs are one of the expenses that a household has in proportion to the time they have the child. This adjustment would be part of the parenting adjustment. It was noted the guidelines are not age sensitive. A discussion regarding infants versus 12-year old children ensued. Should an additional age adjustment be added for toddlers that require pre-school or all day child care? Should child care be phased out at certain income levels?
- As an alternative for the decision makers, it was suggested to offer a “Plan B” which would include the same general principles, with less significant changes, and the addition of child care expenses.

Summary of Consensus (No Official Vote Taken)

1. Phase II is favored over Phase I.
2. The recommendations of the task group have been embraced with some minor exceptions and change in some policy issues.
3. The committee is cognizant of the political implementation aspects of the information presented.
4. Members are to think about the issue of child care expenses. Specifically, whether or not it should be eliminated or included, or perhaps presented in a different form. It was acknowledged the answer depends on which model the committee will recommend.

Review Guideline Sections

Section 5B - After much discussion regarding no substantive changes occurred in this section. The question was raised whether these issues remain in this section or be moved into the deviation section.

An informal vote was taken to determine the following: “How many people would be in favor of ‘may’ language going into Section 5 (being an income determination issue versus deviation statement in Section 20)?” *Results:* 6 in favor of the language remaining in Section 5 and 2 in favor of relocating language to Section 20.

NEXT MEETING

- There will be discussion regarding the approach, process, and ramifications of scaling down. What numbers to consider (75%)? A decision will be made next meeting to advocate one version or present an alternative.
- Robert Barasso offered to do a few state comparisons and will report the findings of his comparison study. He plans to seek child support amounts for the following states: Massachusetts as a high child support amount state, Iowa to

represent a medium child support amount state, and Oregon to represent a low child support amount state. Each child support amount will be based on a 10-year old child with 100 days of visitation. Recommended cells represent: CP \$3000/NCP \$3000; CP \$3000/NCP \$1000; CP \$1000/NCP \$3000; CP \$6000/NCP \$3000; and CP \$3000/NCP \$6000.

- Cari Gerchick, Public Information Officer, AOC, suggested that the committee completely finish their work prior to presenting to the Arizona Judicial Council.
- Helen Davis will work with David Horowitz on drafting language to Section 5 and Section 20 of the guidelines. Judge Sally Simmons and Robert Barrasso offered to meet with members of the State Bar and the Family Court Bench to ascertain their input, while Judge Cohen will poll other judges' for their feedback.
- Due to the amount of work that needs to be accomplished, it was agreed that longer meeting timeframes would be necessary. The next meeting would then be scheduled from 10:00 a.m. to 4:00 p.m.

Call to the Public

Patricia Madsen from Community Legal Services was present. She would like to see the language regarding the "reduction in personal living expenses" moved to the deviation section. She believes that false numbers could occur if there is an assumption that a third party moving in with a parent will reduce personal living expenses.

The committee agreed that this will be taken into consideration.

Adjourn

The meeting was adjourned at 2:07 p.m.